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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,925	09/10/2003	Oren Asher		5135
Oren Asher 51 Bronte Road Thorn Hill, ON L3T 7J4 CANADA				
			EXAMINER HOANG, HIEU T	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 07/23/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/657,925	<b>Applicant(s)</b> ASHER, OREN	
	<b>Examiner</b> Hieu T. Hoang	<b>Art Unit</b> 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3, 6, 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 6, 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/20/07</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is in response to the communication filed on 06/20/2007.

***Election/Restrictions***

2. Applicant's election without traverse of invention III (claims 3, 6 and 9) in the reply filed on 06/20/2007 is acknowledged.
3. Claims 1-9 are originally presented.
4. Claims 1, 2, 4, 5, 7 and 8 are subjected to non-elected inventions and are withdrawn from the examiner's consideration.
5. Claims 3, 6 and 9 are pending.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flowers, JR et al. (US 2003/0105812, hereafter Flowers) and in view of Mason et al. (US 2004/0177119, hereafter Mason).

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8. For claim 3, Flowers discloses a method for peer-to-peer private e-mail comprising:

- receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer ([0132], peers can compose and send email messages to each other using Outlook);
- determining if the second peer computer is on-line ([0123], members' presence statuses (online or offline) are determined);

Flowers does not explicitly disclose:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line (abstract, lines 13-15, [0041], if the recipient is present, the message can be delivered; if not, the message can be held until the recipient is present).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Flowers and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Flowers for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])

9. For claim 6, Flowers discloses a computer-readable storage medium storing program code for causing a computer to perform the steps of:

- receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer ([0132], peers can compose and send email messages to each other using Outlook);
- determining if the second peer computer is on-line ([0123], members' presence statuses (online or offline) are determined);

Flowers does not explicitly disclose:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Flowers and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Flowers for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])

10. For claim 9, Flowers discloses a system for peer-to-peer private e-mail comprising:

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- a receiver for receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer ([0132], peers can compose and send email messages to each other using Outlook);
- a peer-to-peer user identifier for determining if the second peer computer is on-line ([0123], members' presence statuses (online or offline) are determined);

Flowers does not explicitly disclose:

- a transmitter for sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- a transmitter for sending the e-mail message to a second peer computer only when the second peer computer is on-line.

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Flowers and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Flowers for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])

### **Second rejection**

11. Claims 3, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abdelaziz et al. (US 2003/0041141, hereafter Abdelaziz) and in view of Mason.

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12. For claim 3, Abdelaziz discloses a method for peer-to-peer private e-mail comprising:

- receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer (fig. 21, [0990] lines 1-7, peers can exchange email messages to each other using SMTP);
- determining if the second peer computer is on-line (abstract, [0015], a decentralized entity presence detection mechanism in a peer-to-peer network);

Abdelaziz does not explicitly disclose:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line (abstract, lines 13-15, [0041], if the recipient is present, the message can be delivered; if not, the message can be held until the recipient is present).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Abdelaziz and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Abdelaziz for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])

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13. For claim 6, Abdelaziz discloses a computer-readable storage medium storing program code for causing a computer to perform the steps of:

- receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer (fig. 21, [0990] lines 1-7, peers can exchange email messages to each other using SMTP);
- determining if the second peer computer is on-line (abstract, [0015], a decentralized entity presence detection mechanism in a peer-to-peer network);
- and

Abdelaziz does not explicitly disclose:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- sending the e-mail message to a second peer computer only when the second peer computer is on-line.

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Abdelaziz and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Abdelaziz for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])



14. For claim 9, Abdelaziz discloses a system for peer-to-peer private e-mail comprising:

- a receiver for receiving an e-mail message, sent from a first peer computer to itself, intended for delivery to a second peer computer (fig. 21, [0990] lines 1-7, peers can exchange email messages to each other using SMTP);
- a peer-to-peer user identifier for determining if the second peer computer is on-line (abstract, [0015], a decentralized entity presence detection mechanism in a peer-to-peer network); and

Abdelaziz does not explicitly disclose:

- a transmitter for sending the e-mail message to a second peer computer only when the second peer computer is on-line.

However, Mason discloses:

- a transmitter for sending the e-mail message to a second peer computer only when the second peer computer is on-line.

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Abdelaziz and Mason to apply a presence enabled email delivery scheme by Mason to a peer-to-peer email system by Abdelaziz for ensuring that an email recipient is present to receive an email before it is sent (Mason, [0006])

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**Conclusion**

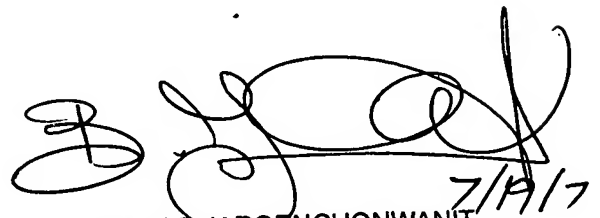
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu T. Hoang whose telephone number is 571-270-1253. The examiner can normally be reached on Monday-Thursday, 8 a.m.-5 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HH

  
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7/11/17